

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY  
AVERAGE WHOLESale PRICE  
LITIGATION

)  
) MDL NO. 1456  
) Civil Action No. 01-12257-PBS  
) Subcategory No. 03-10643

THIS DOCUMENT RELATES TO:

*The City of New York, et al.*

v.

*Abbott Laboratories, Inc., et al.*

)  
) Judge Patti B. Saris  
)  
)  
)  
)

**DECEMBER 2011 STATUS REPORT ON BEHALF OF  
THE CITY OF NEW YORK AND NEW YORK COUNTIES**

The undersigned counsel for the City of New York and New York Counties in the above-captioned action (hereinafter referred to as “plaintiffs”) hereby submit the attached Status Report for December 2011, in accordance with the Court’s June 17, 2004 Procedural Order.

Dated: December 1, 2011

Respectfully submitted,

**City of New York and New York Counties in  
MDL 1456 except Nassau and Orange, by**

**KIRBY McINERNEY, LLP**  
825 Third Avenue  
New York, New York 10022  
(212) 371-6600

By: /s/ Joanne M. Cicala  
Joanne M. Cicala

Ross B. Brooks, Esq.  
MILBERG LLP  
One Pennsylvania Plaza  
New York, NY 10119  
(212) 594-5300  
*Special Counsel for the County of Nassau*

Theresa A. Vitello, Esq.  
LEVY PHILLIPS &  
KONIGSBERG, LLP  
800 Third Avenue  
New York, NY 10022  
(212) 605-6205  
*Counsel for the County of Orange*

**December 2011 Status Report on Behalf of the  
City of New York and New York Counties**

**Voluntary Dismissal of Claims**

On June 2, 2011, plaintiffs filed a notice of voluntary dismissal of claims against defendant Endo Pharmaceuticals, Inc. *See* Docket No. 7576, Sub-docket No. 290. This notice remains *sub judice*.

On November 18, 2011, plaintiffs filed a notice of voluntary dismissal with prejudice of claims against defendants Merck & Co., Inc. (f/k/a Schering-Plough Corporation), Schering Corporation, and Warrick Pharmaceuticals Corporation. *See* Docket No. 7921, Sub-docket 310. This notice remains *sub judice*.

On November 22, 2011, plaintiffs filed a notice of voluntary dismissal of claims with prejudice against defendant Merck, Sharp & Dohme Corp. (f/k/a Merck & Co., Inc.). *See* Docket No. 7930, Sub-docket 311. This notice remains *sub judice*.

**Settlement Order of Dismissal**

On October 6, 2011, the court entered plaintiffs and defendants' joint motion to extend the settlement order of dismissal as to Alharma Inc., Purepac Pharmaceutical Co., King Pharmaceuticals Inc., King Research and Development, Monarch Pharmaceuticals Inc., Merck & Co. Inc., Mylan Laboratories Inc., Mylan Pharmaceuticals Inc., UDL Laboratories Inc., Par Pharmaceutical Companies, Inc., Par Pharmaceutical Inc., Roche Laboratories Inc., Hoffman-La Roche Inc., Schering-Plough Corp., Schering Corporation, Warrick Pharmaceuticals Corporation and TAP Pharmaceutical Products Inc. The order provides that claims against these defendants shall be dismissed without costs and without prejudice to the right of any party, upon good cause shown, to reopen the action by December 5, 2011 if settlement is not consummated. *See* the

Court's October 6, 2011 Electronic Order granting Docket No. 7827, Sub-docket No. 304.

On November 1, 2011, the Court entered plaintiffs' and defendant Sandoz, Inc.'s joint proposed settlement order of dismissal of claims against defendant Sandoz, Inc. The order provides that claims against this defendant shall be dismissed without cost and without prejudice of any party, upon good cause shown, to reopen the action within one hundred and twenty (120) days if settlement is not consummated. *See* Docket No. 7871, Sub-docket No. 307.

**CERTIFICATE OF SERVICE**

I, Kathryn Allen, hereby certify that on the 1st day of December, 2011, I caused a true and correct copy of the above December 2011 Status Report for the City of New York and New York Counties to be delivered to counsel of record for defendants by electronic service pursuant to Case Management Order No. 2 entered by the Honorable Patti B. Saris in MDL No. 1456.

Dated: December 1, 2011

/s/ Kathryn B. Allen  
Kathryn B. Allen  
Kirby McInerney LLP  
825 Third Avenue  
New York, NY 10022  
(212) 371-6600